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ABSTRACT

This manual contains the course material designed to prepare equal employment opportunity counselors to informally resolve complaints of discrimination. The principal focus of the course is on techniques of counseling, which are taught through lecture and role-play sessions simulating actual complaint situations. At the end of the course, participants will be able to explain the discrimination complaint process and describe their role as EEO counselors. They will also have the beginning skills necessary to conduct interviews, gather information pertinent to the complaint and informally resolve the complaint. (Author/PC)

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United States Civil Service Commission
Bureau of Training
Personnel Management Training Center

ED 099792

U.S. CIVIL SERVICE COMMISSION

BUREAU OF TRAINING

EEO TRAINING INSTITUTE

EQUAL EMPLOYMENT OPPORTUNITY COUNSELING

Participant Manual

1974

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COURSE OBJECTIVES:

This course is designed to prepare EEO Counselors to informally resolve complaints of discrimination. The principal focus of the course is on techniques of counseling, taught through lecture and role-play sessions which simulate actual complaint situations.

Specifically, at the end of the course participants will be able to:

- explain the discrimination complaint process
- describe their role as EEO Counselors

and will have the beginning skills necessary for them to:

- conduct interviews
- gather information pertinent to the complaint
- informally resolve the complaint

COURSE AGENDA

PROGRAM OBJECTIVES AND INTRODUCTIONS

TEST

DUTIES AND RESPONSIBILITIES OF THE EEO COUNSELOR

DEALING WITH SOME TYPICAL ISSUES

THE COUNSELING INTERVIEW

PRACTICE COUNSELING EXERCISES

DEVELOPING A STRATEGY FOR INFORMAL RESOLUTION

LEE GREEN CASE -- A RUN THROUGH

ANTICIPATING AND DEALING WITH PROBLEMS

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Public Law 92-261
92nd Congress, H. R. 1746
March 24, 1972

An Act

86 STAT. 103

To further promote equal employment opportunities for American workers.

* * *

"NONDISCRIMINATION IN FEDERAL GOVERNMENT EMPLOYMENT

"SEC. 717. (a) All personnel actions affecting employees or applicants for employment (except with regard to aliens employed outside the limits of the United States) in military departments as defined in section 102 of title 5, United States Code, in executive agencies (other than the General Accounting Office) as defined in section 105 of title 5, United States Code (including employees and applicants for employment who are paid from nonappropriated funds), in the United States Postal Service and the Postal Rate Commission, in those units of the Government of the District of Columbia having positions in the competitive service, and in those units of the legislative and judicial branches of the Federal Government having positions in the competitive service, and in the Library of Congress shall be made free from any discrimination based on race, color, religion, sex, or national origin. 80 Stat. 378.

"(b) Except as otherwise provided in this subsection, the Civil Service Commission shall have authority to enforce the provisions of subsection (a) through appropriate remedies, including reinstatement or hiring of employees with or without back pay, as will effectuate the policies of this section, and shall issue such rules, regulations, orders and instructions as it deems necessary and appropriate to carry out its responsibilities under this section. The Civil Service Commission shall— Enforcement; rules and regulations.

"(1) be responsible for the annual review and approval of a national and regional equal employment opportunity plan which each department and agency and each appropriate unit referred to in subsection (a) of this section shall submit in order to maintain an affirmative program of equal employment opportunity for all such employees and applicants for employment; National and regional plan, annual review.

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Progress reports, publication.

"(2) be responsible for the review and evaluation of the operation of all agency equal employment opportunity programs, periodically obtaining and publishing (on at least a semiannual basis) progress reports from each such department, agency, or unit; and

"(3) consult with and solicit the recommendations of interested individuals, groups, and organizations relating to equal employment opportunity.

The head of each such department, agency, or unit shall comply with such rules, regulations, orders, and instructions which shall include a provision that an employee or applicant for employment shall be notified of any final action taken on any complaint of discrimination filed by him thereunder. The plan submitted by each department, agency, and unit shall include, but not be limited to—

"(1) provision for the establishment of training and education programs designed to provide a maximum opportunity for employees to advance so as to perform at their highest potential; and

"(2) a description of the qualifications in terms of training and experience relating to equal employment opportunity for the principal and operating officials of each such department, agency, or unit responsible for carrying out the equal employment opportunity program and of the allocation of personnel and resources proposed by such department, agency, or unit to carry out its equal employment opportunity program.

Librarian of Congress, authority.

With respect to employment in the Library of Congress, authorities granted in this subsection to the Civil Service Commission shall be exercised by the Librarian of Congress.

"(c) Within thirty days of receipt of notice of final action taken by a department, agency, or unit referred to in subsection 717(a), or by the Civil Service Commission upon an appeal from a decision or order of such department, agency, or unit on a complaint of discrimination based on race, color, religion, sex or national origin, brought pursuant to subsection (a) of this section, Executive Order 11478 or any succeeding Executive orders, or after one hundred and eighty days from the filing of the initial charge with the department, agency, or unit or with the Civil Service Commission on appeal from a decision or order of such department, agency, or unit until such time as final action may be taken by a department, agency, or unit, an employee or applicant for employment, if aggrieved by the final disposition of his complaint, or by the failure to take final action on his complaint, may file a civil action as provided in section 706, in which civil action the head of the department, agency, or unit, as appropriate, shall be the defendant.

42 USC 2000e note.

Ante, p. 104.

78 Stat. 259.
42 USC 2000e-5.

"(d) The provisions of section 706 (f) through (k), as applicable, shall govern civil actions brought hereunder.

"(e) Nothing contained in this Act shall relieve any Government agency or official of its or his primary responsibility to assure nondiscrimination in employment as required by the Constitution and statutes or of its or his responsibilities under Executive Order 11478 relating to equal employment opportunity in the Federal Government."

USC prec. title 1.

* * *

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for the first time . . . it's the law

THIRD GENERATION EQUAL EMPLOYMENT OPPORTUNITY

by Irving Kator, Asst. Executive Director, Civil Service Commission

ON MARCH 24, 1972, President Nixon signed Public Law 92-261, which among other things, places Federal employees and agencies under the Civil Rights Act of 1964, as amended. For the first time, it gives the Civil Service Commission statutory authority to see that all personnel actions in the Federal Government are not only free from discrimination, but are actively and affirmatively oriented toward equality of opportunity.

The act represents the culmination of many years of work by civil rights groups, various committees of Congress, and the executive branch. It was supported strongly by the President and the Administration as it worked its way through Congress, and the Civil Service Commission worked closely with the committees of the Congress in the development of the legislation as it affects Federal employees.

Its name—the Equal Employment Opportunity Act of 1972.

A clue to its intent is the fact that until shortly before passage by the Congress, it was called the Equal Employment Opportunity Enforcement Act of 1972.

But there should be no illusion that the name that finally emerged means that enforcement will be more rhetoric than reality. The act opens up new avenues for enforcement, and they are broad avenues, capable of accommodating heavy traffic if they must. And for Federal employment it places responsibility for enforcement squarely on the Civil Service Commission.

The act goes far beyond enforcement alone as related to the Federal Government. It requires substantially more affirmative action on the part of agencies, and substantially more monitoring of such action by the Commission.

In short, while the total integration of equal employment opportunity into every aspect of personnel policy and practice in the selection, placement, training, and advancement of civilian employees of the Federal Government remains an administrative commitment, it is now also the law of the land.

Where such integration is found to be falling short, and when an agency permits a situation that needs correction, the Commission now has additional authority to correct matters "through appropriate remedies."

These remedies may be reinstatement or hiring with or without back pay—a new authority granted the Commission. Long-standing, of course, is the authority under Executive order to issue such rules, regulations, and instructions in this area as are deemed necessary. The head of each agency is now obligated by statute

to comply with such orders and instructions.

Furthermore, Federal employees who allege discrimination based on race, color, religion, sex, or national origin have guaranteed access to the courts if they are not satisfied with the final action taken on their complaints by an agency or by the Commission's Board of Appeals and Review.

Effective the day it was signed, the act ushers in a new era for the Federal program. We call it third generation equal employment opportunity because it represents the third distinct phase in the evolution of equal employment opportunity in the Federal Government.

FIRST GENERATION EEO

Historical perspective makes these phases perceptible. Although Article VI of the Constitution prohibited religious discrimination in filling "any office or public trust under the United States," and the Civil Service Act of 1883 substituted merit for politics and other nonmerit factors as the measure for Federal employment, the principle that public employment could not be denied for reasons of race, creed, or color was first stated by the executive branch in Executive Order 8587 in 1940. This order amended the Civil Service Rules to prohibit discrimination on the basis of race. It was followed closely by the Ramspeck Act barring discrimination in the Federal service on the basis of race, creed, or color. (Sex was not added to nondiscrimination language until 1967.)

Each President beginning with President Roosevelt in 1940 issued Executive orders aimed at eliminating discrimination in Federal employment. These orders issued over a period of 15 years set up various Boards and Committees assigned to implement this Federal policy. The policy emphasis, however, was on nondiscrimination, and the program remained passive.

Thus in a succession of administrative actions designed to promote fair treatment in the Federal job market, agencies were told not so much what they should or must do, but rather what they could *not* do.

This was first generation equal employment opportunity.

TRANSITION

The transition from a passive program to a positive one was gradual.

In 1955, President Eisenhower's Executive Order 10950 proclaimed "it is the policy of the United States Government that equal opportunity be afforded all qualified persons, consistent with law, for employment in the Federal Government."

"Equal opportunity" had surfaced. The long, sweeping curve that was to shift the program's direction had begun, and the concept of "affirmative action" was on the horizon.

SECOND GENERATION—AFFIRMATIVE ACTION

The concept of "affirmative action" was introduced in 1961 with President Kennedy's Executive Order 10925, which directed "positive measures for the elimination of any discrimination, direct or indirect, which now exists."

This marked the birth of the second generation in the evolution of equal employment opportunity efforts in the Federal service. It was nurtured through its formative years in the Kennedy-Johnson era and brought to maturity in the Nixon administration.

President Johnson's Executive Order 11246 in 1965 brought the significant change of putting responsibility for Government-wide guidance and leadership under the Civil Service Commission—for the first time placing equal employment opportunity in the mainstream of Federal personnel administration.

Although the Kennedy-Johnson orders placed upon agencies the responsibility for active efforts to assure equal opportunity, the orders did not address themselves to the specifics of affirmative action or to the problems of upward mobility of lower level employees. President Johnson's E.O. 11375 of 1967 added sex for the first time as a prohibited form of discrimination.

EXECUTIVE ORDER 11478

Soon after he took office in 1969, President Nixon asked the Commission to study the Federal EEO program and to recommend improvements. The result was Executive Order 11478, issued August 9, 1969.

It was much stronger than preceding orders and brought second generation EEO efforts to maturity. It made the following significant changes:

- For the first time it made clear that equal employment opportunity "applies to and must be an integral part of every aspect of personnel policy and practice in the employment, development, advancement, and treatment of civilian employees of the Federal Government."
- It emphasized upward mobility so that underutilized employees with ability to advance could receive training and experience that would help them compete for more responsible jobs.
- It spelled out specifically the steps which constitute "affirmative action."
- And it made a clear distinction between equal opportunity efforts for all persons and manpower training programs in Federal agencies to employ and assist the disadvantaged.

This total integration of personnel management and equal employment opportunity meant that the personnel system must reflect equal opportunity at every step—in initial hiring, promotion, evaluation, awards, training—in short, across the full gamut of personnel administration. It meant, too, that the Civil Service

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Commission, the agency with overall authority for personnel management, is also responsible for equal employment opportunity, and the two functions are unified rather than being individual efforts traveling separate paths.

PROGRESS AND RESULTS

The key to measuring the effectiveness of affirmative action programs is, of course, results. The Federal equal employment opportunity program has been moving in the right direction. Minorities not only hold significant numbers of positions, they have moved and are continuing to move up the pay scale.

Minority employment continues to increase at all but the lowest levels, with total minority representation now standing at 19.5 percent of the work force. From 1967 to 1971, for example, minority employment in all pay schedules increased by 6,080 positions while total Federal employment decreased by 48,169.

The latest survey—data as of November 30, 1971—shows that the number of minority group Americans in better paying jobs in the Federal Government increased significantly. Minorities now hold 15.2 percent of General Schedule positions—2.8 percent, GS 1–4; 18.9 percent, GS 5–8; 8.9 percent, GS 9–11; 5.2 percent, GS 12–13; 4.2 percent, GS 14–15; and 2.8 percent, GS 16–18—all (except GS 1–4) up from 1970.

The survey also revealed that minority employees are moving into the middle and higher grade levels at a faster rate than non-minority employees. The chart spells out just how much faster. This is a result of efforts which the Commission and agencies are making to assure upward mobility into better jobs, many of them in professional and administrative fields.

Over one third of the Federal work force now is made up of women. At the higher grade levels of the Federal service, GS 13 and above, close to 3,000 women have been added to the rolls since 1966.

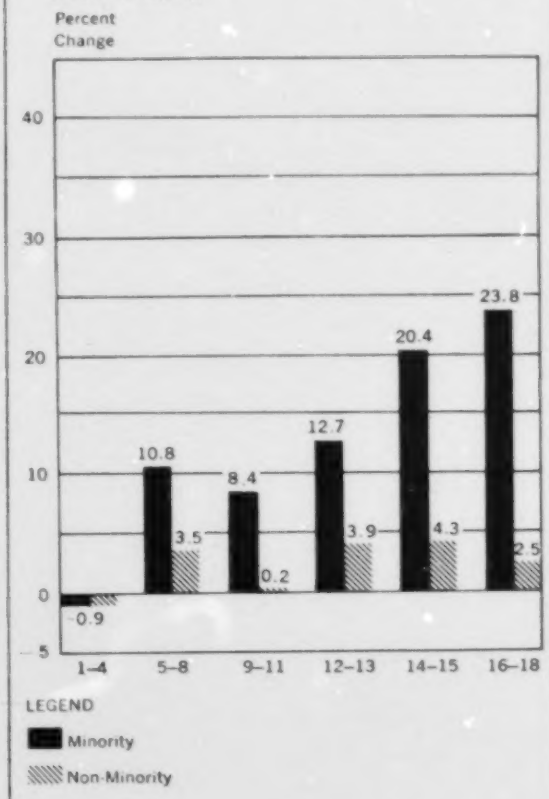
November 1971 data for the largest Federal agencies show an increase in the number of women in mid-level positions on their way up the career ladder. While women held only 20.7 percent of all jobs at grades GS 7 through 12 in 1970, they accounted for 50 percent of the total increase in jobs at these grade levels from November 1970 to November 1971. This is 7,000 jobs out of the increase of 14,000 at these grade levels.

A recent development is the use by Federal agencies of numerical goals and timetables for minority employment. Goals are also applicable to women. This management concept is encouraged by the Commission as useful in contributing through merit staffing toward the resolution of equal employment problem areas within agencies.

The goals, which should be closely related to antic-

FEDERAL SERVICE

Percentage Increase or Decrease in the Number of Minority Group and Non-Minority Employees Between November 1970 and November 1971 by Grade Grouping



General Schedule and Similar Grade Groupings

In those General Schedule and similar grade groupings where both minority and non-minority employment increased, gains by minority group Federal employees occurred at faster rates than those for non-minority employees. On November 30, 1971, there were 7,181 more minority group employees in grades 5–8 than on November 30, 1970, 2,204 more in grades 9–11, 1,337 more in grades 12–13, 549 more in grades 14–15, and 31 more in grades 16–18.

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ipated job opportunities and to skills available in the recruiting area, can serve to stimulate affirmative action and progress within the merit framework in particular organizations, grade levels, or occupational fields.

THIRD GENERATION EEO—ENFORCEMENT

We have seen the program develop and change direction from nondiscrimination to emphasis on positive, steadily strengthened affirmative action to get measurable results within merit principles.

Now we have entered a new era—an era where equal employment opportunity and affirmative action are no longer matters of executive-branch policy alone. They are the law.

We have come to third generation equal employment opportunity: a strong affirmative action program, totally integrated into personnel management, and enforcement—all supported by statutory authority.

Let's look at the new provisions on the books.

COVERAGE

The law states that all personnel actions affecting employees or applicants for employment "shall be made free from any discrimination based on race, creed, color, religion, sex, or national origin." The departments and agencies covered by the law are the same as those covered by E.O. 11478 and include the U.S. Postal Service and the Postal Rate Commission. The Library of Congress is also included but enforcement is made the responsibility of the Librarian.

For all other offices covered, the Civil Service Commission has authority for enforcement and may order whatever remedies are appropriate, including reinstatement or hiring of employees with or without back pay.

Regulations have been developed for assuring enforcement, including the award of back pay as a remedy in findings of discrimination.

On-site evaluations will be stepped up and collection and analysis of data on minorities and women expanded to help us and agencies identify problem areas and do something about them.

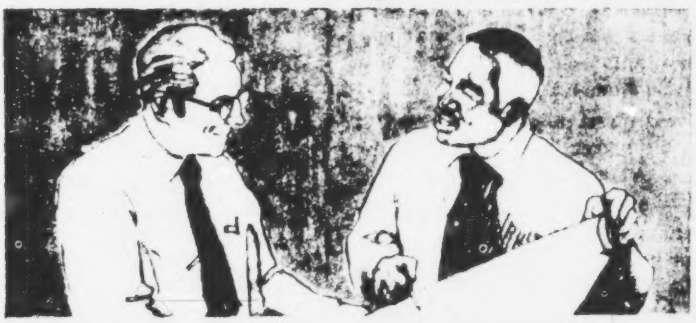
Make no mistake. The Congress wants compliance. The Commission wants compliance. "Business as usual" will not suffice. This goes for both sides of the coin, whether it's a manager playing the "quota" game, or a supervisor paying only lip service to the Federal EEO program.

The act states very clearly that "nothing contained in this act shall relieve any Government agency or official of its or his primary responsibility to assure nondiscrimination in employment as required by the Constitution and statutes or of its or his responsibilities under Executive Order 11478 relating to equal employment opportunity in the Federal Government."

ACTION PLANS

While each department and agency has been required by the Commission to submit an annual EEO action plan for review, the act requires that the Commission be responsible for an annual review and approval of national and regional EEO action plans. It is now a legal obligation for the Commission to review each agency's plan and give formal approval before its implementation.

Regional action plans are brand new. They offer the opportunity for a close look at an individual installation's affirmative action plans, its problems, and its progress. We propose to tailor regional plans to an agency's own organizational structure. This is an important step in decentralization and will permit us to home in on particular problem areas. CSC regional offices will review regional plans. Our ADP capability will be enhanced so we can look with some particularity at field installations, as well as at an agency's overall picture.



Statistics are important indicators of management action. We plan to use them to the hilt.

By law, action plans must now include, but are not limited to:

(1) Provisions for the establishment of training and

education programs designed to provide a maximum opportunity for employees to advance so as to perform at their highest potential. We have revised our action plan guidelines accordingly and we will review agency actions against our instructions.

(2) A description of the qualifications, in terms of training and experience, of "principal and operating officials" and agency personnel and resources devoted to equal employment opportunity. New standards have been developed for equal employment opportunity officials and agency personnel will be required to meet such standards. The adequacy of the number of persons assigned to EEO, and of the other resources agencies are devoting to their equal employment activities, will be a part of the action plan reviews now made by the Commission. The job required by law cannot be accomplished without resources and it will be the obligation of each agency to supply the necessary staff and resources.

MONITORING

The Commission is now responsible for reviewing and evaluating the operation of all agency equal employment opportunity programs. It is also required to obtain and publish progress reports on all of them at least semiannually. Agency employment reports of minorities and women must be sufficiently comprehensive to comply with the legal requirement which calls for semiannual reports. Agencies will be required, in addition, to provide narrative program activity reports.

On-site evaluation will be the prime method for monitoring problems and progress. For the first time, the equal employment programs in major agencies will be reviewed on an annual cycle, including headquarters as well as a sampling of field installations.

ACCESS TO THE COURTS

Within 30 days after receipt of notice of final action taken by an agency or by the Commission's Board of Appeals and Review, an employee or applicant for employment who has alleged discrimination based on race, color, religion, sex, or national origin, if he (or she) is dissatisfied with final action, may file a civil action in court, naming the head of the employing agency as defendant. Also, a complainant may file a civil suit if final action on the complaint is not taken by the agency within 180 days of filing, or by the Commission's Board of Appeals and Review within 180 days of an appeal from an agency decision. The Commission will assist agencies in meeting their deadlines on final action complaint decisions by providing Commission investigators, on request, on a reimbursable basis. Also, we will monitor agency complaint processing closely to prevent backlogs and bottlenecks and will continue as under present regulations to provide independent third-party appeals examiners to hold hearings in complaint cases.

Once a civil action is filed, the court, if it deems it just, may appoint an attorney for the complainant, and waive payment of fees, costs, or security. A judge will be assigned to hear the case at the earliest practicable date. If the court finds that the agency has intentionally engaged in an unlawful employment practice, it may enjoin the agency head from such practice and order such corrective action as it deems appropriate—including reinstatement or hiring, with or without back pay.

The Commission is well aware of the implications of this provision of the act, but we do not foresee it as sending a steady stream of grievants to the courts. We welcome it as an opportunity to have the decisions in discrimination cases measured by the courts as to their fairness.

To be sure, guaranteed access to the courts and back pay possibilities may possibly mean a heavier volume of court cases than we have witnessed before. This will challenge the quality of administrative handling of complaint cases, and may well—as the legislation means it to—improve it where improvement is needed.

We do foresee the development of a body of legal precedent which will need to be followed by Federal appeals examiners handling discrimination complaints.

IN SUMMARY

Equal employment opportunity in the Federal service now has a clear, specific, and positive statutory charter. It has come a long way but still has a distance to go.

Discrimination is not just the malicious intent of individuals. It may be systemic. Our job is to see that it does not appear in any Federal merit procedures. To assure this, all aspects of our systems for the recruitment and selection of employees will undergo intensive review.

Solid progress in the employment of minority group persons and women has been made, and it is a cliche to say that more is needed. But until the Federal Government has a better representation of all groups, including women, throughout the grade structure and in policy-making positions, further progress will be needed. And it will come with continued emphasis on merit principles, not their abandonment. Under true merit principles, it's the man or the woman as measured against the job that counts, not irrelevant factors of race, religion, sex, or national origin. And it will come, not on a compensatory basis because of past disadvantage and discrimination, but on the basis of the ability of minority group persons and women to compete with all comers under a fair employment system based on merit.

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U. S. CIVIL SERVICE COMMISSION

ELEMENTS OF AN AFFIRMATIVE ACTION PROGRAM FOR EQUAL EMPLOYMENT OPPORTUNITY

Outlined below are the elements which comprise a comprehensive program of equal employment opportunity. These elements are based on the specific requirements of Executive Order 11478 and the Equal Employment Opportunity Act of 1972 (P.L. 92-261), and are elaborated on in Commission instructions to agencies on the development and submission of equal employment opportunity plans.

1. Adequate and competent staff and dollar resources throughout the organization to assure administration and implementation of a results-oriented program of equal employment opportunity which is involved in every aspect of personnel management policy and practice.

2. Recruitment activities designed to reach and attract job candidates from all segments of the population. Where appropriate, these activities are tailored to improve their effectiveness among members of specific groups.

3. Full identification and utilization of the present skills of employees on the rolls, facilitating movement through job restructuring techniques, establishment of trainee positions, and assuring that qualifications requirements are realistic in terms of the jobs to be done.

4. Opportunities for employees to enhance their skills, perform at their highest potential, and advance in accordance with their abilities and the availability of opportunities. These efforts include programs of career counseling and planning, training and education, job analysis and redesign, and elimination of any unnecessary barriers to upward mobility.

5. Encouragement of EEO program understanding and support by supervisors and managers through practical training and advice, effective use of incentive systems, and evaluating supervisory and managerial performance in the EEO area.

6. Managerial support for and participation in community efforts to improve conditions--such as housing, transportation and education--which affect employability.

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7. Systematic evaluation of EEO program progress, identification of problem areas and assessment of the effectiveness of program activities.

8. Systems providing for the informal resolution of EEO related employment problems wherever possible, and for prompt, fair, and impartial consideration of formal complaints of discrimination in any aspect of employment.

9. Special programs to provide employment and training opportunities for the economically and educationally disadvantaged.

***

The areas outlined above are essential elements for equal employment opportunity programs in all agencies. In addition, affirmative action from the Civil Service Commission's EEO program management standpoint includes a continuing review of all employment procedures, tests and other selection devices, etc., to assure they are job-related and to eliminate any artificial or unnecessary barriers to the employment and advancement of members of any groups, and to promote equal opportunity for all persons to compete on the basis of merit.

The Commission monitors agency implementation of the full range of affirmative action activities, and assures compliance with equal employment opportunity law and regulation through review of agency EEO plans, on-site evaluation of agency programs, and analysis of statistical data on the employment of minorities and women.

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STIPULATIONS OF

THE EEO ACT OF 1972 P.L. 92-261

FEDERAL AGENCIES COVERED UNDER CIVIL RIGHTS ACT

- Not as "Employers"
- Requires "Personnel Actions" To Be Free From Discrimination
- Coverage Same as E. O. 11478

REQUIREMENTS ON AGENCIES

- Non-Discrimination
- Affirmative Action
- Submit Action Plans

  0 National
  0 Regional

- Plans Required to Include:

  0 Training and Education Programs
  0 Qualifications of Principal EEO Officials
  0 Allocation of Personnel and Resources

- Submit Reports
- Notify Complainant of Final Action
- Comply with CSC Instructions

REQUIREMENTS ON CSC

- Review and Approve National and Regional EEO Action Plans Annually

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- Determine Plan Content
- Define Regional Plans
- Monitor Agency Progress
- Publish Semi-Annual Progress Reports
- Consult with Interested Groups
- Enforce the Act

ENFORCEMENT

- CSC Given Broad Authority to Enforce

  - Includes reinstatement or hiring
  - With or without back pay
  - Other corrective action
  - On complaint or evaluation

COMPLAINTS AND CIVIL ACTIONS

- FPM 713 Procedures Remain in Effect
- Access to Courts:

  - Within 30 days after final action by agency or by CSC on appeal
  - After 180 days from filing of initial charge with agency or 180 days from filing of appeal with Bar
  - Agency head defendant
  - Expedited court procedures
  - Court may enjoin or order affirmative action

CSC IMPLEMENTING ACTIONS

- Strengthened Program Direction

  - Headquarters
  - Field

- Stepped Up Evaluation Program
- Expanded Minority Data Collection and Analysis System

  - Pinpoint problem areas by locations and installations

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NOTICES TO EMPLOYEES OF THE RIGHTS, OBLIGATIONS, AND BENEFITS THAT ACCRUE TO THEM AS MEMBERS OF THE FEDERAL WORK FORCE.

Agencies are required to issue annually notices:

1. Reminding employees to bring up to date, information in their records concerning experience, education, and training for consideration for merit promotion.
Reference: FPM chapter 335, section 1-5b.

2. Informing employees about the merit promotion program and its objectives.
Reference: FPM chapter 335, section 5-2(2).

Other Information To Be Given Employees

Agencies are also required to issue appropriate notices:

1. Informing employees and recognized employee organizations of the affirmative equal employment opportunity program and the regulations governing the program.
References: FPM chapter 713, sections 2-4d and 2-7a, and civil service regulations 713.203(i) and 713.204(e) and (f).

2. Advising employees of their appeal rights in allegedly discriminatory employment practices.
References: FPM chapter 713, section 2-7; and appendix B of that chapter.

3. Informing employees of their right to form, join, and participate in the management of labor organizations of Federal employees freely and without fear of penalties or reprisals.
Reference: Executive Order 11491, as amended; section 1(a).

4. Informing employees of the rights and benefits they retain when they transfer temporarily to international organizations.
Reference: FPM chapter 353, appendix A, section A-1c.

5. Explaining to employees their rights and obligations when they enter military duty, either active or inactive.
Reference: FPM chapter 353, appendix A, section A-1c.

6. Informing employees of their responsibilities in preserving their rights and benefits as Federal employees before they take assignments with State or local governments.
Reference: FPM chapter 334, subchapter 2, section 2-1b.

7. Informing employees about permitted and prohibited political activity.
Reference: Title 5 of the United States Code, subchapter III of chapter 73; and civil service rule 4.1.

PROCEDURES FOR PROCESSING COMPLAINTS OF DISCRIMINATION BASED ON RACE, COLOR, RELIGION, SEX, OR NATIONAL ORIGIN

1. EMPLOYEE or APPLICANT contacts EEO COUNSELOR within 30 calendar days of alleged discriminatory action. COUNSELOR has 21 calendar days to attempt informal resolution.

   If final counseling interview is not completed in 21 days, COUNSELOR must on 21st day give written notice of right to file complaint any time up to 15 calendar days after final interview.

2. If informal resolution fails, EMPLOYEE may file formal complaint with DIRECTOR OF EEO, AGENCY HEAD, INSTALLATION HEAD, EEO OFFICER, FWPC within 15 calendar days of final interview with COUNSELOR.

3. EEO OFFICER advises DIRECTOR OF EEO, who assigns INVESTIGATOR from jurisdiction of agency other than that in which complaint arose.

4. Investigation conducted; COMPLAINANT given copy of investigative file. EEO OFFICER provides opportunity for informal adjustment.

5. If adjustment not made, EEO OFFICER notifies COMPLAINANT in writing (1) proposed disposition, (2) right to hearing and decision by AGENCY HEAD, and (3) of right to decision by AGENCY HEAD without a hearing.

6. If COMPLAINANT does not reply within 15 calendar days, EEO OFFICER may adopt proposed disposition as decision of the agency, providing he has been delegated this authority. Otherwise, complaint is forwarded to AGENCY HEAD (or his designee) for agency decision. Upon receipt of decision, EMPLOYEE may appeal this decision or any final decision within 15 days to CSC or may file a civil action in an appropriate U. S. District Court within 30 days.

7. If COMPLAINANT asks for hearing, agency requests CSC to assign complaints EXAMINER, who must be from agency other than that in which complaint arose.

8. COMPLAINTS EXAMINER reviews file; remands complaint to agency if further investigation necessary; schedules and conducts hearing.

9. Hearing recorded and transcribed verbatim. COMPLAINTS EXAMINER makes findings, analysis, and recommended decision; forwards these and complaint file to the AGENCY HEAD (or his designee).

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10. HEAD OF AGENCY (or his designee) makes agency decision, based on file, giving complainant copy of COMPLAINTS EXAMINER'S report. Must give specific reasons for rejection or modification of COMPLAINTS EXAMINER'S recommended decision in detail.

11. COMPLAINANT has right to appeal to CSC's BOARD OF APPEALS AND REVIEW within 15 calendar days.

NOTE: I. COMPLAINANT has right to file civil action in an appropriate U. S. District Court:

a. within 30 calendar days of his receipt of notice of final agency action on complaint

b. after 180 calendar days from date of filing a complaint with agency if there has been no decision

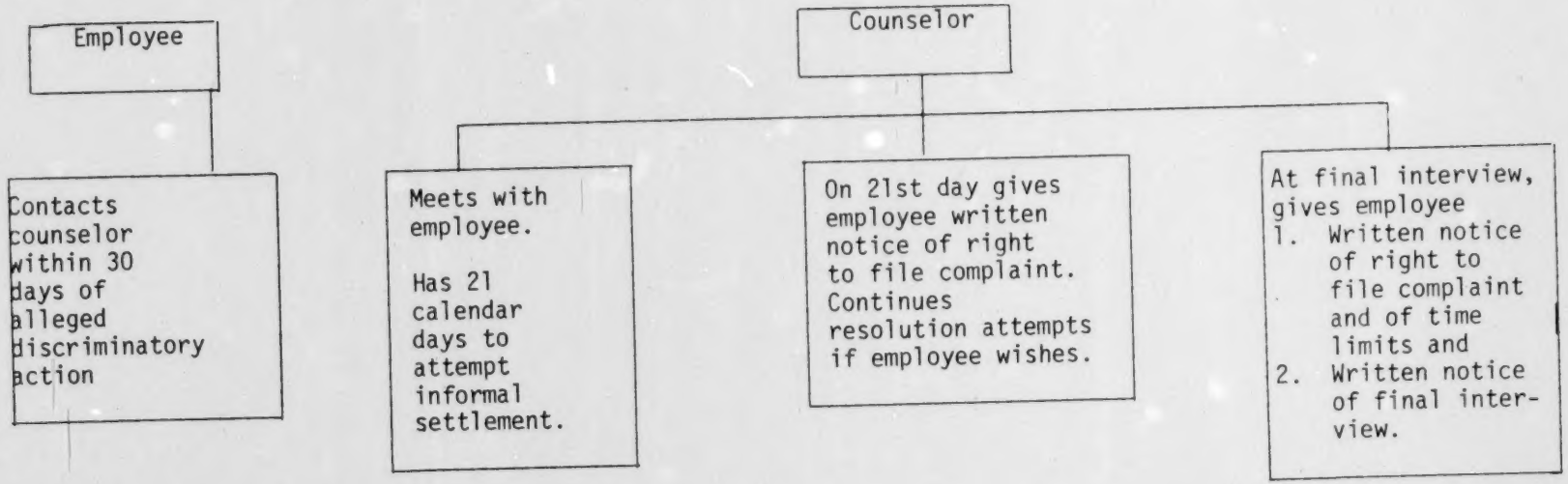
c. within 30 calendar days of his receipt of notice of final action taken by CSC on complaint, or

d. after 180 calendar days from date of filing an appeal with CSC if no CSC decision

Filing of a civil action does not end agency processing of a complaint or CSC decision

II. The agency shall furnish CSC monthly reports on all complaints pending within the agency. If an agency has not issued a decision or requested CSC to supply a complaints examiner within 75 calendar days of the date a complaint was filed, CSC may require special action or assume responsibility for the complaint.

PRECOMPLAINT PROCESSING


Employee
Counselor
Contacts counselor within 30 days of alleged discriminatory action
Meets with employee.
Has 21 calendar days to attempt informal settlement.
On 21st day gives employee written notice of right to file complaint. Continues resolution attempts if employee wishes.
At final interview, gives employee
1. Written notice of right to file complaint and of time limits and
2. Written notice of final interview.

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THE NOTICE BELOW IS TO BE GIVEN TO THE PERSON COUNSELED AT THE TIME OF THE FINAL INTERVIEW.

A copy of this notice should be kept by the Counselor. If a complaint is filed, the copy should accompany the Counselor's report on his counseling activities, and be made a part of the complaint file.

SAMPLE FORMAT

Subject: NOTICE OF FINAL INTERVIEW WITH EEO COUNSELOR

From: EEO Counselor DATE:
[Specific Installation]

To: Name of Person Counseled

This is notice that on the above date the final counseling interview was held in connection with the matter you presented to the EEO Counselor.

If you believe you have been discriminated against on the basis of race, color, religion, sex or national origin, you have the right to file a COMPLAINT OF DISCRIMINATION WITHIN 15 CALENDAR DAYS AFTER RECEIPT OF THIS NOTICE.

The complaint must be in writing and may be filed in person or by mail with the Director of Equal Employment Opportunity *[provide specific mailing address]*, or any of the following officials authorized to receive discrimination complaints:

- Agency Head
  [provide address]
- Installation Head
  [provide address]
- EEO Officer
  [provide address]
- Federal Women's Program Coordinator
  [provide address]

The complaint must be specific and must be limited to the matters discussed with the EEO Counselor.

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NOTICE OF RIGHT TO FILE A DISCRIMINATION COMPLAINT

A Copy of this notice should be kept by the Counselor. If a complaint is filed, the copy should accompany the Counselor's report on his counseling activities and made a part of the complaint file. This notice should be given by the Counselor to the person counseled 21 calendar days after the Counselor was first contacted on the matter by the employee or applicant.

SAMPLE FORMAT

Subject: NOTICE OF RIGHT TO FILE A DISCRIMINATION COMPLAINT

From: EEO Counselor DATE:
[Specific Installation]

This is to inform you that although counseling on the matter you brought to the attention of the EEO Counselor has not been completed, 21 calendar days have gone by since you first contacted the Counselor and you are now entitled, if you want to do so, to file a discrimination complaint if you believe you have been discriminated against on the basis of race, color, religion, sex or national origin.

If you do not file a complaint at this time, counseling will continue and your right to file a complaint will also continue until 15 calendar days AFTER THE FINAL INTERVIEW with the Counselor. The Counselor will inform you in writing when the final counseling interview is conducted.

If you file a complaint, it must be in writing and be filed in person or by mail with the Director of Equal Employment Opportunity [provide specific mailing address], or any of the following officials authorized to receive discrimination complaints:

- Agency Head
  [provide address]
- Installation Head
  [provide address]
- EEO Officer
  [provide address]
- Federal Women's Program Coordinator
  [provide address]

The complaint must be specific and must be limited to the matters discussed with the EEO Counselor.

You will receive a notice of receipt of your discrimination complaint from the Equal Employment Opportunity Officer.

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COMPLAINT OF DISCRIMINATION IN THE FEDERAL GOVERNMENT

BECAUSE OF RACE, COLOR, RELIGION, SEX, OR NATIONAL ORIGIN

(Please Type or Print)

(FOR AGENCY USE)

1. WHAT IS YOUR (COMPLAINANT'S) FULL NAME?

2. WHAT IS YOUR TELEPHONE NUMBER INCLUDING AREA CODE IF YOU KNOW IT?

YOUR STREET ADDRESS (OR RD NUMBER OR POST OFFICE BOX NUMBER)

HOME PHONE:

YOUR CITY | STATE | ZIP CODE

WORK PHONE:

3. WHICH FEDERAL OFFICE DO YOU BELIEVE DISCRIMINATED AGAINST YOU? *(Prepare a separate complaint form for each office which you believe discriminated against you.)*

A. NAME OF OFFICE WHICH YOU BELIEVE DISCRIMINATED AGAINST YOU:

B. STREET ADDRESS OF OFFICE:

C. CITY | STATE | ZIP CODE

D. NAME AND TITLE OF PERSON(S) YOU BELIEVE DISCRIMINATED AGAINST YOU *(if you know)*:

4. ARE YOU NOW WORKING FOR THE FEDERAL GOVERNMENT?

☐ YES (ANSWER A, B, C AND D BELOW.)
☐ NO (CONTINUE WITH QUESTION 5.)

A. NAME OF AGENCY WHERE YOU WORK:

B. STREET ADDRESS OF YOUR AGENCY:

C. CITY | STATE | ZIP CODE

D. WHAT IS THE TITLE AND GRADE OF YOUR JOB?

5. DATE ON WHICH MOST RECENT ALLEGED DISCRIMINATION TOOK PLACE:

MONTH | DAY | YEAR

6. CHECK BELOW WHY YOU BELIEVE YOU WERE DISCRIMINATED AGAINST, BECAUSE OF YOUR:

☐ RACE. IF SO, SHOW YOUR RACE _____
☐ COLOR. IF SO, SHOW YOUR COLOR _____
☐ RELIGION. IF SO, SHOW YOUR RELIGION _____
☐ NATIONAL ORIGIN, IF SO, SHOW YOUR NATIONAL ORIGIN _____
☐ SEX. IF SO, STATE YOUR SEX _____

7. EXPLAIN HOW YOU BELIEVE YOU WERE DISCRIMINATED AGAINST (TREATED DIFFERENTLY FROM OTHER EMPLOYEES OR APPLICANTS) BECAUSE OF YOUR RACE, COLOR, RELIGION, SEX, OR NATIONAL ORIGIN. *(You may continue your answer on another sheet of paper if you need more space.)*

8. (a) I HAVE DISCUSSED MY COMPLAINT WITH AN EQUAL EMPLOYMENT OPPORTUNITY COUNSELOR *(See Instructions)*:

☐ YES ☐ NO

8. (b) NAME OF COUNSELOR:

9. WHAT CORRECTIVE ACTION ARE YOU SEEKING?

10. DATE OF THIS COMPLAINT

MONTH | DAY | YEAR

11. SIGN YOUR (COMPLAINANT'S) NAME HERE:

SEE REVERSE SIDE OF FORM FOR INSTRUCTIONS.

CSC FORM 894
DECEMBER 1972

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READ CAREFULLY

* This form should be used only if you, as an applicant for Federal employment or a Federal employee, think you have been discriminated against because of race, color, religion, sex, or national origin by a FEDERAL agency and have presented the matter for informal resolution to an Equal Employment Opportunity Counselor within 30 calendar days of the date the incident occurred or, if a personnel action, within 30 calendar days of its effective date.

* Your complaint must be filed within 15 calendar days of the date of your final interview with the Equal Employment Opportunity Counselor. If the matter has not been resolved to your satisfaction within 21 calendar days of your first interview with the Equal Employment Opportunity Counselor and the final counseling interview has not been completed within that time, you have a right to file a complaint at any time thereafter up to 15 days after the final interview.

* These time limits may be extended if you show that you were not notified of the time limits and were not otherwise aware of them, or that you were prevented by circumstances beyond your control from submitting the matter within the time limits, or for other reasons considered sufficient by the agency.

* If you need help in the preparation of your complaint, you may contact the Equal Employment Opportunity Officer or the Equal Employment Opportunity Counselor at the office where the alleged discrimination occurred, or you may secure help from a representative of your choice.

* Your written complaint should be filed by you or by your designated representative with the Equal Employment Opportunity Officer where the alleged discrimination occurred, the head of the field installation, the agency's Director of EEO, Federal Women's Program Coordinator, or other such officials as the agency may designate for that purpose.

* You may have a representative of your own choosing at all stages of the processing of your complaint.

* You will have an opportunity to talk with an investigator and give him all the facts which you believe show discrimination. The investigator will not be under the jurisdiction of the head of that part of the agency in which the alleged discrimination took place.

* After the investigation of your complaint has been completed, you will be given a copy of the investigative file and an attempt will be made by the agency to adjust the matter.

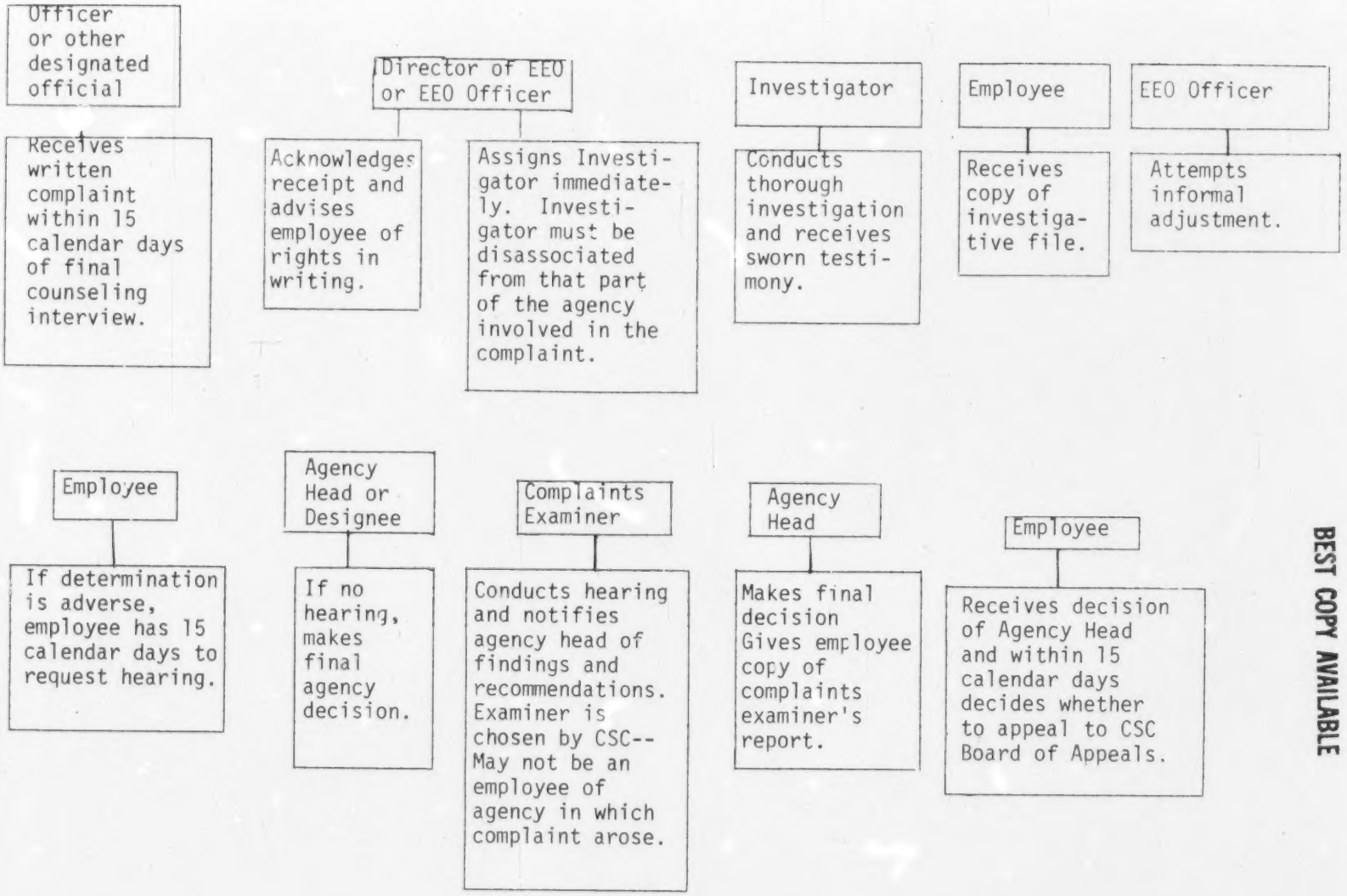
* If your complaint is not adjusted satisfactorily, you will be given an opportunity to request a hearing, which will be conducted by an independent Complaints Examiner certified by the Civil Service Commission. The hearing will be held at a convenient time and place. At the hearing, you may present witnesses and other evidence in your behalf.

* The final decision (in writing) will be made by the head of the agency or his designee. If a hearing was held on your complaint, the head of the agency or his designee will review the decision recommended by the Complaints Examiner before making a final decision, and he will furnish you with a transcript of the hearing, a copy of the findings, analysis, and recommended decision of the Complaints Examiner, and the agency's decision letter.

* If you are not satisfied with the final agency decision, you have the right to appeal that decision within 15 calendar days after receipt to the Board of Appeals and Review of the U.S. Civil Service Commission, Washington, D.C. 20415 or you may file a civil action in an appropriate Federal District Court within 30 days of receipt of the agency's decision. If you elect to file an appeal with the Commission, you may still file a civil action in a Federal District Court within 30 days of the Commission's decision if you are dissatisfied with the decision.

* You also may file a civil action in an appropriate Federal District Court if you have not received a final agency decision within 180 days of filing your complaint with the agency or if you have not received a final Commission decision within 180 days of filing your appeal with the Commission's Board of Appeals and Review.

PLEASE FILL OUT THE OTHER SIDE OF THIS SHEET


Officer or other designated official
Receives written complaint within 15 calendar days of final counseling interview.
Director of EEO or EEO Officer
Acknowledges receipt and advises employee of rights in writing.
Assigns Investigator immediately. Investigator must be disassociated from that part of the agency involved in the complaint.
Investigator
Conducts thorough investigation and receives sworn testimony.
Employee
Receives copy of investigative file.
EEO Officer
Attempts informal adjustment.
Employee
If determination is adverse, employee has 15 calendar days to request hearing.
Agency Head or Designee
If no hearing, makes final agency decision.
Complaints Examiner
Conducts hearing and notifies agency head of findings and recommendations. Examiner is chosen by CSC-- May not be an employee of agency in which complaint arose.
Agency Head
Makes final decision Gives employee copy of complaints examiner's report.
Employee
Receives decision of Agency Head and within 15 calendar days decides whether to appeal to CSC Board of Appeals.

COMPLAINT PROCESSING

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RIGHT TO FILE CIVIL ACTION

WITHIN

30
DAYS

OF
FINAL DECISION
BY
CIVIL SERVICE COMMISSION

OR

AFTER

180
DAYS

OF APPEAL,
IF NO
DECISION
BY
CIVIL SERVICE COMMISSION

16.

RIGHT TO FILE CIVIL ACTION

WITHIN

30

DAYS

OF
FINAL
DECISION
BY
AGENCY

OR

AFTER

180

DAYS

OF
FILING OF COMPLAINT,
IF NO
DECISION
BY
AGENCY

17.

EEO COUNSELING

Counseling is the first stage in the discrimination complaint process. Counselors must try to resolve EEO-related problems informally in a short period of time whenever possible. The EEO counselors through interviews and inquiries attempt to resolve these problems in 21 calendar days or less.

EEO Counselors must establish an open and sympathetic channel through which employees may raise questions, discuss grievances, get answers, and on an informal basis get resolutions of problems connected with equal employment opportunity. Counselors serve as bridges between employees and management and are responsible for trying to clear up problems which are brought to their attention by employees. Counselors discuss the employee's problems with the employee, and with the employee's supervisors or associates, if necessary; discuss with the employee the issues of the case and try to find solutions to problems where it is possible to do so.

EEO counseling is available to all applicants and employees. Men and women who feel they have been discriminated against because of their race, color, religion, sex, or national origin have equal access to EEO counseling whether or not they are members of a particular group.

Applicants for employment with the agency as well as employees must discuss EEO-related problems with an EEO counselor before they may file a complaint of discrimination.

DO YOU HAVE THE PERSONAL CHARACTERISTICS, KNOWLEDGE, AND ABILITIES YOU NEED TO BE AN EFFECTIVE COUNSELOR?

RATE YOURSELF

A. PERSONAL CHARACTERISTICS

- Empathy
- Objectivity
- Perceptiveness
- Resourcefulness
- Flexibility
- Stability
- Maturity
- Personal commitment to promote equal job opportunity for all persons

B. KNOWLEDGE

- Familiarity with the basic goals of the civil rights and equal opportunity movements
- Understanding of the particular employment problems of minority groups and women
- The general structure of the Federal personnel system, including position classification, staffing, merit promotion, performance evaluation, career development, employee rights and responsibilities, grievance and appeals procedures
- Your own agency's procedures and regulations that pertain to personnel;
- The mission of your own agency and the general occupational knowledge and skills required to perform the work associated with the mission.

C. ABILITIES

- Ability to communicate effectively with persons of different ages, races, sexes, national origins, and economic, cultural, and educational backgrounds.

- Ability to communicate with persons of all levels, including persons who hold key management positions in the organization.

- Ability to be sympathetic with the problems of employees, and also gain the confidence of employees, supervisors, and managers.

- Ability to collect, assemble, and analyze a variety of pertinent facts and opinions concerning controversial issues.

- Ability to exercise mature judgment under pressure and to retain composure when exposed to personal criticism or emotional outbursts.

- Ability to act objectively in developing pertinent information to allow management to make a sound and just decision towards the resolution of an EEO complaint.

THE COUNSELOR AND THE EEO PROGRAM

Equal employment opportunity is the responsibility of the manager. It is the manager who is ultimately responsible for the success or failure of the program. The EEO program must have the personal involvement of the head of the office. Program responsibility is shared, however, by every line manager and supervisor in the organization.

The head of each Federal department and agency receives staff assistance on the program from a Director of Equal Employment Opportunity who assists and advises the agency head on the conduct of an affirmative program of equal employment opportunity. Organizational subdivisions within the agency are served by Equal Employment Opportunity Officers who either are organizational heads or who assist their organizational heads in implementing an effective and affirmative EEO program in their organizations, including the handling of formal complaints of discrimination.

The Equal Employment Opportunity Counselor's role is vital. His responsibilities dovetail with and are a natural extension of those of the manager and the Equal Employment Opportunity Officer.

THE COUNSELOR'S ROLE

A. Discussing Problems with Employees

EEO counseling begins when an employee comes to the counselor with a problem. Where walk-in counseling is possible, the problem may be fully discussed when the employee first contacts the counselor. In other cases, the employee may contact the counselor and ask to talk about the problem at a particular time and place, convenient for the employee, for the first counseling session. The counselor should tell the employee of the right to have a representative present at all counseling sessions, including the first one.

INITIATING COUNSELING

A single incident will generally be the immediate cause for the employee to come to a counselor, but the problem frequently will be the result of many occurrences culminating in an incident which motivates the employee to seek a remedy for the situation. Although the causes of employee problems are myriad, the matters most frequently called to the attention of counselors are failure to be promoted or to be considered for promotion, failure to be selected for training, disciplinary action, duty assignments or harassment by supervisors or others.

TYPICAL ISSUES

The counselor should listen sympathetically, attempt to win the employee's confidence, and maintain an atmosphere which facilitates communication. The counselor should not stop the employee from talking about the problem, even if the problem does not appear to be a matter under the purview of the discrimination complaint regulations. After the employee has explained the problem, the counselor should determine what to do.

The counselor should assure the employee that his or her identity will not be revealed without permission. At the same time, the counselor should carefully explain any limitations the obligation to withhold the employee's identity might impose on the counselor in the inquiry.

CONFIDENTIALITY

WHAT SHOULD AN EEO COUNSELOR DO IF . . .

PROBLEM IS NOT WITHIN PURVIEW

If the problem clearly does not involve an allegation of discrimination based on race, color, religion, sex, or national origin, the counselor should direct the employee to proper channels for resolution of the problem. If, for example, an employee says that she was denied training because she is physically handicapped, the counselor should inform her of her right to pursue a grievance under the agency grievance procedure, and advise her where she can do so.

QUESTION OF PURVIEW

If the counselor is not sure whether the problem is within the purview of the discrimination complaint process, the counselor should check with the EEO Officer before making inquiries.

WITHIN PURVIEW

If the problem clearly involves an allegation of discrimination based on race, color, religion, sex, or national origin, the counselor should discuss the matter with the employee, make appropriate inquiries and attempt to clear up the matter on an informal basis.

B. Making Inquiries

After the initial interview with the employee, the counselor should determine what facts will be needed to resolve the issues the employee raised during the discussion of his problem. The counselor then should attempt to gather these facts through interviews with agency officials, supervisors, and other employees, and through examination of pertinent records, and instructional material.

FACT GATHERING

The counselor's interviews with the employee's supervisors, associates, and others should be conducted informally without sworn testimony or extensive documentation. These informal interviews and record reviews should not be confused with the kind of in-depth investigation that is described in Investigating Complaints of Discrimination (Personnel Methods Series Pamphlet No. 17) and made by a trained investigator under the formal discrimination complaint procedure.

The counselor should develop a good working relationship with the personnel office staff, since the personnel office contains many of the records and much of the information needed to resolve EEO problems.

WORKING RELATIONSHIP WITH PERSONNEL

C. Attempting Informal Resolution

When the counselor believes he or she has enough information to resolve the problem equitably, the counselor should suspend the inquiry and attempt resolution by talking with the employee and appropriate management officials, separately or together. The counselor can talk with them together only if the employee has given the counselor permission. Otherwise, the counselor should choose the course most likely to result in a satisfactory resolution of the problem.

INFORMAL RESOLUTION

There is no set formula for the counselor to follow in attempting a resolution. Any solution proposed should be based on facts gathered in the inquiry, and should be realistic. If the counselor suggests action for management, it should be a sensible and sound action that management can reasonably be expected to implement. A counselor should not suggest action which would violate Federal personnel law, regulation, or policy. He or she should know the provisions of any negotiated agreement. If management agrees to some action, it is good practice for the counselor to see that a written record is made of the agreement and that a copy is provided for the employee as well as management.

RECORD OF AGREEMENT

The counselor should generally concentrate on resolving individual problems without help from the organization's EEO officer, but where appropriate he or she should ask for assistance in obtaining records and in reaching a solution or correcting a problem. When asking the EEO officer for help, the counselor should tell the EEO officer what has been learned in the inquiry (revealing the employee's identity only when permitted to do so) and be prepared to recommend specific action.

HELP FROM EEOO

D. Extension of Counseling and Right to File a Formal Complaint

The time limit for counseling is 21 calendar days. After the 21 days, an employee is free to file a formal complaint at any time up to 15 days after the final counseling interview. If the counselor cannot resolve the problem within 21 days, he or she must, on the 21st day, notify the employee in writing of the right to file a formal complaint. If the employee decides not to file at this time, the counseling may continue if the counselor thinks informal resolution is still possible.

EXTENSION OF COUNSELING

E. Terminating Counseling when Informal Resolution Fails

The counselor cannot resolve all problems. The employee may not be satisfied with the counselor's proposed resolution of the matter, or management may not agree to the counselor's proposals. Whatever the bar to resolution, as soon as the counselor is reasonably certain that the problem cannot be resolved within 21 calendar days, he or she should terminate counseling and advise the employee of the right to file a complaint of discrimination.

TERMINATING COUNSELING

At the final interview with the employee, the EEO counselor should indicate what the inquiry has disclosed, but the decision as to the next steps must be the decision of the employee.

The counselor must not advise nor attempt to restrain an employee from filing a complaint of discrimination under the formal procedure.

RIGHT TO FILE FORMAL COMPLAINT

Since EEO counseling inquiries are conducted informally and do not involve sworn testimony or extensive documentation, the counselor may not make findings on the issue of discrimination. The counselor should not imply that his or her interpretation of the issues is an official agency finding on the issue of discrimination.

THE FINAL INTERVIEW

At the final interview the counselor must inform the employee in writing of the right to file a complaint of discrimination and the notice should specify the time limit for filing the complaint (no later than 15 calendar days following the final session with the EEO Counselor). The counselor should tell the employee that the complaint must be in writing but that it should not be a voluminous report. The information requested on CSC Form 894, "Sample Form for Filing a Complaint of Discrimination," is sufficient since the counselor will cover further details in the written report, made after a formal complaint is received. Most agencies have adopted this form or developed a distinctive complaint form tailored to their own needs. The counselor should help the employee prepare the complaint if the employee asks for assistance.

WRITTEN NOTICE OF FINAL INTERVIEW

At the final interview the complainant must also be given written notice of the final interview and of the names of the person or persons authorized to accept complaints of discrimination. The counselor must also tell the employee that the employee or the employee's representative may mail the complaint

to one of these persons or deliver the complaint to one of them personally.

The counselor should explain that, once the complaint reaches the formal processing stage, the complaint file may be opened to all who are involved and need access to it, including the EEO Officer, management officials, and possibly persons whom the complaintant has identified as alleged discriminatory officials.

F. Writing a Report when Employee Files a Complaint

When advised that a formal complaint of discrimination has been accepted from an employee he has counseled, an EEO counselor must submit a written report of the counseling to the EEO Officer and must give a copy of the report to the employee.

WRITING REPORT

With the report the counselor should include

a. A copy of the "Notice of final interview with EEO Counselor" and

b. A copy of the "Notice of Right to File a Discrimination Complaint"

To avoid confusion, the counselor should not use the term investigation, either orally or in the report in connection with any counseling activities. Investigations are conducted under the formal complaint

AVOIDING TERM "INVESTIGATION"

procedure, and involve testimony in affidavit form, certified copies or extracts of records and other documents, and a broader range of inquiry into agency practices than is intended at the counseling stage.

G. Briefing the EEO Officer and Recommending Improvements

The counselor should keep confidential notes on counseling activities so that the EEO Officer can be briefed time to time. Many EEO officers schedule periodic meetings with EEO counselors for this purpose. Any time the counselor has information which points up need for correction or improvement in the EEO program in his organization, however, he or she should promptly bring this information to the attention of the EEO officer so that the latter can decide on appropriate action.

BRIEFING THE EEOO

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CHECKLIST GUIDE FOR WRITTEN COUNSELING REPORTS SUBMITTED TO EEOO

NOTE: This should be used as a flexible guideline. Many cases will not require all (or even half) of this information. The name of the game is "informal" resolution and reporting should also be as informal as the EEOO will allow.

- Name.
- Organizational unit and organizational title.
- Phone number.
- Title and grade of position.
- Length of time in position and grade.
- Summary of background (only as applicable): Work Interests and Goals; Work History; Education; Training; Work History; Education; Training; Awards; Tests; Health; Supervisory Appraisals.
- Dates of interview(s) with the EEO Counselor serving the organization in which the matter arose.
- Kind of discrimination alleged (race, color, religion, sex, or national origin).
- Date of the matter causing employee to believe he had been discriminated against, or, if personnel action, its effective date.
- Description of problem -- action, decision, or condition -- giving rise to the matter as seen by the employee (or by other persons involved).
- Name, organizational unit, title, grade of others involved in the case.
- Specific corrective action(s) requested by employee
- Followup steps taken or to be taken by the counselor.
- List pertinent CSC, agency, and installation policies, regulations, procedures.
- List actions taken by management, or supervisory officials, personnel office, EEOO, etc.
- Information given to management, or supervisory officials, personnel office, EEOO, etc., regarding the issues of the matter.
- Information given employee regarding the issues of the matter by the EEO Counselor and/or others.
- Employee's expressed viewpoint and decision regarding the information given by the EEO Counselor and/or others.
- Nature of closing action.
- Date of final interview.

EEO COUNSELING REPORTS SHOULD BE CLEAR, COMPLETE, CONCISE, AND CORRECT.

Selection of EEO Counselors

Agencies should try to make sure that the EEO counseling staff is broadly representative of the agency workforce in terms of occupation, sex, race, and ethnic background. Grade level is not important if the counselor possesses the attributes and abilities already discussed and in any case will depend on the grade range of the workforce from which the counselor is selected.

Because supervisors and personnel office employees may be involved in the processing of personnel actions affecting persons who seek the services of EEO counselors, many agencies have found it inadvisable to assign EEO counseling responsibility to supervisors or members of office staffs in personnel.

To be successful in their activities, EEO counselors must maintain the confidence of both employees and management. Therefore, counselors should not serve as representatives for any employees at any stage of the discrimination complaint process; likewise persons who normally represent employees for other reasons should not be designated as EEO counselors. Also, counselors should not be asked to serve as management representatives or advisors in connection with hearings in individual cases.

Final selection and appointment of EEO counselors is a management responsibility. Most employers have found it useful to consult with unions or other employee organizations for advice on the selection of EEO counselors and some agreements negotiated between unions and management provide for this. Management should consider such input to ensure selection of counselors with whom the workforce will be able to identify and in whom agency rank and file will have confidence.

ASSIGNMENT OF COUNSELORS

Number of counselors. The number of counselors assigned within an agency or installation will vary according to the racial, ethnic, and sex makeup of the workforce, and the EEO-related problems and issues which have been raised generally. As a rule of thumb, the Civil Service Commission suggests that agencies designate at least one EEO counselor in every major installation or major organizational subdivision of 50 or more employees, with an overall ratio of one counselor for every 500 employees in large organizations.

TRAINING OF COUNSELORS

Under normal circumstances, no EEO counselor should be assigned a case until he or she is formally trained and thoroughly briefed on the EEO program. Agencies should arrange for formal training of new EEO counselors immediately upon selection. To assist agencies, the Civil Service Commission offers basic and advanced EEO counseling courses frequently in its central office and regional office training centers. Many agencies, however, conduct their own EEO counseling courses. The Commission also conducts training institutes for agency instructors, and supplies course outlines to agencies for their use in conducting their own EEO counselor training.

Agencies should develop continuing programs to maintain a high level of interest in the performance and competence of EEO counselors. Continuing orientation and training, both formal and informal, should help EEO counselors gain knowledge in such areas as:

1. - the general structure and operation of the Federal personnel system, including position classification, merit promotion, staffing, performance evaluation, career development, employee rights and responsibilities, and grievance and appeals procedures;
2. - their own agency's procedures and regulations that pertain to personnel, including provisions of negotiated agreements with labor organizations;

3. - the mission of their own agency and the general occupational knowledge and skills required to perform the work associated with the mission;

4. - counseling techniques.

BEST COPY AVAILABLE

EEO COUNSELING - DEALING WITH SOME TYPICAL ISSUES

You, the EEO Counselor, are visited by Mr. Smith, an Equipment Specialist (Electronic) GS-9, who intends to file a complaint of discrimination. He says that:

1 - the installation grossly discriminates against minority employees

2 - the affirmative action plan "hasn't any teeth in it"

3 - he has just been passed over, for the third time, for promotion to Electronic Development Technician GS-11

4 - his race (Black) was the dominant factor in his nonselection this time and undoubtedly in the two earlier instances also

5 - the station has an unwritten policy against promoting Blacks above GS-9

6 - he is as well qualified as anyone on the promotion certificate for Electronic Development Technician GS-11, and better qualified than the man who was selected

7 - this is typical of the treatment of minority employees on the station

8 - a friend of his, also Black, applied for a job at the station, on a register with a rating of 92, but was passed over in favor of a white applicant with a rating of 89

9 - you might find one or two minority employees above GS-9... there is one in the branch where he works...but this is tokenism; in the case he's talking about, management arranged a quick detail to qualify the minority employee and promoted him to GS-11 just ahead of a CSC inspection

10 - white employees get parking spaces closer to the building than minority employees

11 - supervisors bear down harder on minority employees; for example,

a - a Black acquaintance of his got a one-day suspension for tardiness, but when white employees come in late (and they do it all the time) the boss just looks the other way

b - he has been told his "attitude" needs improvement, but nobody says anything to white employees about their attitudes... some goof off, some are uncooperative, touchy, etc....there seem to be two standards of behavior

12 - there are Black employees with college degrees in clerical jobs...this is underutilization

13 - he himself has a degree, most of the whites in his branch, including the GS-11's, have only a high school education

Please evaluate the following questions and give reasons for your answers.

- which issues are directly pertinent to Mr. Smith's complaint? (circle individually and then obtain group consensus).

- concerning these issues, what review will you make? through what sources?

- what will you do about the other issues Mr. Smith has raised?

NOTE: This listing is intended as a quick reference to Federal Personnel Manual chapters and other CSC issuances providing general coverage on issues which frequently arise in connection with discrimination complaints. For detailed information it may also be necessary to consult the Index to the FPM (Chapter 003), and the cross-reference tables shown in each FPM chapter. Individual agency regulations should also be consulted as appropriate.

SUBJECT	REFERENCE
General overview and discussion of the personnel function in agencies	FPM Chapter 250
Basic concepts and definitions	FPM Chapter 210
Responsibilities of the CSC and agencies	FPM Chapter 230, Subchapter 1 & 2
Explanation of the FPM System	FPM Chapter 171, Subchapter 2, Appx. A & B
Listings of CSC publications on personnel subjects (including "Federal Employee Facts" series intended to explain various subjects to employees)	FPM Chapter 171, Subchapter 3, 6, 7, 8, & 9
Adverse Actions	FPM Chapter 752, 654
Appeals (see Index, FPM Chapter 003, under "appeals" for breakdown of types)	
Appointment - career and career conditional	FPM Chapter 315
- temporary	FPM Chapter 316
Coordinated Federal Wage System	FPM Chapter 532
Demotion	FPM Chapter 715, 752
Details	FPM Chapter 300
Discipline	FPM Chapter 751
Equal Employment Opportunity	FPM Chapter 713 FPM Supplement 990-1 (Part 713)
Examination (see also individual examination announcements, e.g., Federal Service Entrance Examination, Junior Federal Assistant Examination, Clerk-Typist and Clerk-Stenographer Examination, Senior Level Examination, etc.)	FPM Chapter 332
Flexibilities of the Federal Personnel System	"How to Make the Most of the Merit System" (Personnel Management Series No. 19)

(continued on reverse)

Handicapped, Employment of	FPM Chapter 339, Subchapter 4 & 5
Incentive Awards	FPM Chapter 451
Leave	FPM Chapter 630
Performance Appraisal	FPM Chapter 430
Personnel Records and Files (content, maintenance, etc.) Access to Official Personnel Folder	FPM Chapter 293 FPM Chapter 294, Subchapter 7
Position Classification	FPM Chapter 511 "Classification Principles and Policies" (Personnel Management Series No. 16) "Handbook of Occupational Groups and Series of Classes" Position Classification Standards for Positions Subject to the Classification Act of 1949, as amended
Probationary Period	FPM Chapter 315
Promotion Evaluation of employees for promotion and and internal placement Questions and answers on the Federal Merit Promotion Program	FPM Chapter 335 FPM Supplement 335-1 FPM Bulletin 335-13
Qualification Requirements - general	FPM Chapter 338
Qualification Standards	Handbook X-118
Recruitment, Selection, and Placement - general	FPM Chapter 330
Recruitment and Selection through Competitive Examining	FPM Chapter 332 and 333
Reduction-in-force	FPM Chapter 351
Separation - disciplinary - nondisciplinary	FPM Chapter 751 FPM Chapter 715
Training and Development Executive Development	FPM Chapter 410 FPM Chapter 412

ROLE PLAYING INSTRUCTIONS

Role Playing. Role playing can be described as real behavior in an imaginary situation. Role playing isn't acting a part or trying to behave as you think someone else would; it involves people being themselves in different situations. It is a good way to bridge the gap between the study of principles and techniques and the use of the same principles and techniques.

How is Role Play Done? When you role play, a situation is described for you. It could cover what has just happened, what is to happen in the immediate future, and the role the players are to take.

Because you don't have to act in any prescribed way, role plays don't have scripts or detailed directions. The role players use the information they have about the situation, their own experience, and their ways of hehaving when they play the role. Players make up facts when they need to but not facts that don't fit the situation.

The way that role players behave and feel changes during role plays just as it does in most interpersonal contacts. Most people find role playing fairly easy. They get involved in the situation and draw upon their own backgrounds in deciding what to say and how to behave.

Value of Role Playing. Role playing is used in a number of different situations. Here we will be talking about its values when the role plays are concerned with one to one communication. Some of the benefits are listed below.

- Players have a chance to see both sides of the relationship in the role play by hearing group comments on both and in some cases actually playing both roles.

- Role playing and critique tends to give people a better understanding of their own feelings and the feelings of others. These feelings and the ways that they are expressed are discussed by the group.

- Role playing gives people a chance to practice using skills, to experiment with different techniques, be exposed to new and different situations.

- In role playing there is no artificial separation between acting and thinking or talking about acting.

CRITIQUE: EEO COUNSELING INTERVIEW

Case identification: _____

Student counselor : _____ Date: _____

How well did the counselor start the interview (Did the counselor seem friendly, relaxed, accepting, interested - or abrupt, dictatorial, impatient, critical)?

Was there evidence that the counselor and the employee understood each other's goals and expectations for the interview?

- Did the counselor explain the purpose of the interview?
- Did the counselor explore the employee's understanding of the purpose of the interview?

Did the counselor permit the employee to state the problem in his own way?

- Did attempts to reflect the employee's feelings indicate that the counselor understood what the employee was trying to say?
- Did the counselor ask appropriate questions to clarify statements made by the employee?

Did the counselor give the employee adequate opportunity to ask questions?

- Were the counselor's replies clear and specific?
- Were replies factual, or were opinions given?
- Were they appropriate to the employee's apparent level of understanding?

How did the counselor handle emotional reactions (if any)?

Did the counselor and employee arrive at a mutual understanding of the bases for the complaint?

- Was the desired corrective action identified?
- Was there exploration of alternatives?

Did the counselor explain the employee's right to have a representative present at all counseling sessions?

Did the counselor explain what happens next?

- how the counselor will try to clear up the matter informally
- informal resolution period
- right to file formal complaint

How did the counselor handle note-taking?

How did the interview end?

What mannerisms or attitudes on the counselor's part might have detracted from the interview?

- restlessness
- inattention
- clock watching
- playing with pencils or other objects
- tone of voice

Other comments

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- tone of voice

Other comments

EEO COUNSELOR'S COURSE

Place a check ( ) in the column to the right of each item to indicate whether you agree, disagree, or are undecided on the counselor's proposed actions.

	Agree	Undecided	Disagree
1. During the investigation stage of a formal complaint the investigator comes in and says that he would like to talk to you about your informal resolution efforts with a particular complainant. Knowing you should stay out of the formal complaint process, you would decline to talk to him about the case.			
2. To make certain her identity really remains a secret, a woman calls and asks you to try to resolve a discrimination complaint she has against her supervisor. The matter involves a series of work assignments. You would get the details from her over the telephone, attempt an informal resolution, and call her back.			
3. The amended EEO regulations provide that for an agency to accept a formal written complaint from an aggrieved person, that person must have brought the matter giving rise to the complaint to the attention of the EEO Counselor within 30 days of the date of the occurrence. If a person came to you and said he was discriminated against five weeks ago, you would advise him that he could not file a formal complaint. However, you would try to resolve the matter informally.			

	Agree	Undecided	Disagree
4. An aggrieved person sets up an appointment to discuss an alleged act of discrimination he was subjected to. When he arrives for counseling, he has with him an attorney. He says the attorney is going to represent him and would like to tape the counseling interview. You would advise the attorney and the tape recorder to wait outside your office until you finish the counseling session.			
5. A woman who feels she is a victim of racial discrimination calls and explains that her supervisor will not permit her to leave the work area during duty hours unless she tells him exactly where she is going and how long she'll be there. She would rather not have her supervisor know she is going to see the EEO Counselor. You would suggest that she tell her supervisor the truth, then come over to talk to you.			
6. At lunchtime one of the union stewards in your activity walks up to you and says, "With all your counseling activities you have just about dried up my grievance business. Why don't you leave a couple for me?" You would explain to him there is no conflict in the jobs each of you has.			

Agree	Undecided	Disagree

7. A woman calls your office and tells you that she was suddenly fired, three days ago, after working for nine months under a temporary appointment. She says that she was fired because of her race and that she would like to file a complaint of discrimination.

You tell her that you cannot help her because an EEO counselor may only accept complaints from employees and applicants and she does not fit into either category in view of the fact that she is no longer an employee.

8. Tom Taylor, Chairman of Indians Against Racism, (IAR) an employee organization in your agency, has presented you with a written complaint of discrimination on behalf of 15 Indian employees in the central files unit.

The complaint, which bears the signatures of the 15 complaining employees, states that any action taken for one employee must be taken for all of them.

Since all 15 employees seem to have the same problems you decide to handle the complaint for the entire group.

SUGGESTED READINGS FOR EEO COUNSELORS

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Fitzpatrick, Jospeh P., Puerto Rican Americans, Englewood Cliffs, N.J. Prentice Hall, 1971, 192 pp.

Friedan, Betty, The Feminine Mystique, New York, W.W. Norton and Co. 1963, 410 pp.

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Levitan, Sar A. and Barbara Hetrick, Big Brother's Indian Programs - With Reversations, New York, McGraw-Hill, Inc., 1971, 214 pp.

Levy, Burton, "Effects of 'racism' on the Racial Bureaucracy," Public Administration Review, vol. 32, no. 5, Sept. - Oct. 1972, pp. 479 - 486.

Muse, Benjamin, The American Negro Revolution; from Non-Violence to Black Power, 1963 - 1967, Bloomington, Ind., Indiana University Press, 1968, 345 pp.

Salazar, Ruben, Stranger in One's Land, U. S. Commission on Civil Rights, Washington, D.C., U. S. Government Printing Office, 1970, 49 pp.

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"Special Issue: Women and Counselors." Personnel Guidance Journal, vol. 51, no. 2, October 1972. Entire issue.

Stringer, Alfred G., "Career Counseling for Non-professionals," Civil Service Journal, vol. 12, no. 3, January - March, 1972, pages 7 - 9.

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Waddel, Jack O. and O. Michael Wilson, The American Indian in Urban Society. Boston, Little, Brown, and Co., Inc. 1971, 408 pp.

White, J. Gustav, When Your Advice is Asked. New York, A.S. Barnes and Co. Inc., 1966, 166 pp.

U. S. Civil Service Commission, Office of Labor-Management Relations, Labor-Management Relations in the Federal Service, Answers to questions about Executive Order 11491, 1972, 25 pp.

COURSE EVALUATION BY PARTICIPANT

Did the course meet the objectives?

If not, how should it be changed?

A. QUANTITATIVE ASPECTS				
ITEM	TOO MUCH	ABOUT RIGHT	NOT ENOUGH	COMMENTS
1. *Overall time provided to cover topics*				
2. *Number of topics discussed*				
3. *Amount of time allowed for lecture*				
4. *Amount of time allowed for your questions, thoughts, and ideas*				
5. *Amount of written assignments and exercises*				
6. *Amount of written reference material*				
7. *Number of visual aids [films, slides, graphs, blackboards, etc.]*				

B. QUALITATIVE ASPECTS				
ITEM	VERY SATIS-FACTORY	SATIS-FACTORY	UNSATIS-FACTORY	COMMENTS
1. *Topics or subjects covered*				
2. *Written reference materials*				
3. *Visual aids [films, slides, graphs, blackboards, etc.]*				
4. *Lectures or Presentations*				
5. *Discussion sessions [question and answer, small groups, role-playing, case method, etc.*				
6. *Written assignments and exercises*				
7. *Classroom facilities [lighting, heating, ventilation, furnish-ings, seating arrange-ments, etc.*				
8. *Convenience and service [eating, restrooms, phones, messages, etc.]*				

As a result of your participation in this course, what additional training would you profit from?

Other comments:

Signature _____

Organization: _____

Date: _____

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